

REMARKS

Reconsideration and withdrawal of the rejections set forth in the Office Action are respectfully requested in view of this amendment and the following reasons. Claims 1, 4, 6, 9, 12-15, 17, 18, 20, 25, 26, and 28 have been amended. Claims 1-28 are pending in this application.

Claim 1 has been amended to recite the claimed subject matter more clearly and correct informalities. Support for these features may be found at least at page 5, lines 2-4 and 9-12 and in Figs. 1-2 of the present application as originally filed.

Claims 4, 6, 9, 12-15, 17, 18, 20, 25, 26, and 28 have been amended to correct informalities.

The specification has been amended to correct informalities and make the reference numerals compatible with the corresponding drawing parts.

It is respectfully submitted that the above amendments introduce no new matter within the meaning of 35 U.S.C. §132. For at least these reasons, entry of the present Amendment is therefore respectfully requested. Accordingly, Applicants request reconsideration and timely withdrawal of the pending rejections for the reasons discussed below.

Rejections Under 35 U.S.C. §103

1. Claims 1-6 and 12-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over International Patent Application Publication WO 02/30401 applied for by

Sheppard, et al. ("Sheppard") in view of U.S. Patent No. 7,455,667 issued to Uhland, et al. ("Uhland"). Applicants respectfully traverse this rejection for at least the following reasons.

To establish an obviousness rejection under 35 U.S.C. § 103(a), four factual inquiries must be examined. The four factual inquiries include (a) determining the scope and contents of the prior art; (b) ascertaining the differences between the prior art and the claims in issue; (c) resolving the level of ordinary skill in the pertinent art; and (d) evaluating evidence of secondary consideration. *Graham v. John Deere*, 383 U.S. 1, 17-18 (1966). In view of these four factors, the analysis supporting a rejection under 35 U.S.C. 103(a) should be made explicit, and should "identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed. *KSR Int'l. Co. v. Teleflex, Inc.*, 550 U.S. 398 (2007). Furthermore, even if the prior art may be combined, there must be a reasonable expectation of success, and the reference or references, when combined, must disclose or suggest all of the claim limitations. See *in re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Assuming *arguendo* that the references may be combined and a reasonable expectation of success exists, the combined references do not disclose or suggest all of the claim features. Claim 1, as amended, recites, *inter alia*:

a plurality of blister-like vesicles mounted on a first surface, each vesicle having at least a metallic portion formed from a first metal, and *each vesicle having a wall surrounding a lumen, which is configured to be filled with the one or more substances that are to be released into the body cavity;*

for each vesicle, an *individual* electrical connection between the metallic portion of the vesicle and the first terminal of the power supply, each

connection including a *switch* so as to allow the metallic portion to function as an anode when the switch is closed; ... (emphasis added)

The Examiner is respectfully advised to draw her attention to a definition of the term "vesicle." A vesicle is defined as a "small sac or cyst containing fluid or gas" (The Biology Online (<http://www.biology-online.org/dictionary/Vesicle>); emphasis added). In light of this definition, the anode 60 and cathode 62 shown in Fig. 2 of Sheppard, which the Examiner believes teach the "blister-like vesicles" recited in claim 1, cannot be vesicles because they 60, 62 are electrodes composed of metal (see page 7, last paragraph) and fail to form "small sacs or cysts containing fluid or gas." For the Examiner's reference, it is respectfully submitted that during the examination stage of the counterpart patent application before the European Patent Office, the European Examiner agreed that Sheppard fails to teach the "blister-like vesicles." Thus, it is clear that Sheppard does not teach this feature of claim 1.

Nevertheless the term "blister-like vesicles" *per se* provides a distinctive feature over the reference teaching. Applicants have added language into claim 1 to more specifically describe the claimed subject matter and to thereby facilitate allowance of the present application. As recited above, each blister-like vesicle has "a wall surrounding a lumen, which is configured to be filled with the one or more substances that are to be released into the body cavity." Sheppard fails to teach or suggest this claim feature because, as previously noted, the reference anode 60 and cathode 62 are electrodes that do not have any lumen therein. Thus, even in view of this reason, it is clear that Sheppard does not

teach feature (b) of claim 1.

Furthermore, as admitted by the Examiner, Sheppard fails to disclose that each vesicle is electrically coupled to a switch (Office Action, page 3, lines 18-19). Accordingly, Sheppard also fails to teach that "for each vesicle, an individual electrical connection between the metallic portion of the vesicle and the first terminal of the power supply, each connection including a switch so as to allow the metallic portion to function as an anode when the switch is closed," as recited in claim 1.

In an attempt to cure this admitted deficiency of Sheppard, the Examiner cites the secondary reference, Uhland, asserting that column 15, lines 64 through column 16, line 6 of the reference teaches this claim feature.

Applicants respectfully note that the term "an electrical connection" has been replaced with -- an individual electrical connection --. In an *individual* electrical connection, electric current flowing through one connection will not affect current flowing through another connection. However, this is not the case for Uhland for at least the reasons below.

Uhland describes a device having a plurality of reservoirs being arranged in an array of rows and columns. As shown in Figs. 5A and 5B, the input sides 18 of the reservoirs 16 in a row are connected via a horizontal strip of a conducting material 14, while the output sides 20 of the reservoirs 16 in a column are connected via a vertical strip of the conducting material 14 (see also column 14, line 59 – column 15, line 11). When it is desired to release the contents of a specific reservoir, a voltage should be applied across

the conducting material of the row and the column of the specific reservoir. In this connection, Uhland describes, in column 15, lines 14-17, that "[w]hen applying a voltage/current to a designated row and column to activate the reservoir cap at the intersection of the row and column, the connections *cause current to flow through other reservoir caps*" (emphasis added). Thus, the Uhland device does not have an individual electrical connection for each vesicle, and this is clearly inferred from the constitution illustrated in Figs. 5A and 5B. Due to this constitution, the reservoir at the intersection of the activated row and column would experience the greatest voltage or current. However, as described in Uhland, the current through the non-addressed cap "may increase sufficiently to cause it to rupture" (column 15, lines 27-29). Uhland then suggests remedies for this problem of inadvertent rupturing of reservoirs (column 15, lines 30-48). Even with any one of these remedies, however, the Uhland device still cannot be considered as having an *individual* electrical connection for each reservoir.

Moreover, these remedies are not even discussed in the earliest priority application of Uhland. As it can be seen from the front page of Uhland, the reference has several priority applications and only one of those, Provisional Application No. 60/404,196 ("the '196 application"), filed on August 16, 2002, apparently antedates the priority date of the present application, November 4, 2002. In the '196 application, Fig. 5 corresponds to Uhland's Fig. 5. However, in the '196 application, there is no discussion of either the problem of inadvertent rupturing of the reservoirs or any possible remedies notwithstanding that the problem of inadvertent rupturing was inherently present in the device of the '196

application, as admitted in Uhland. In addition, the text of column 15 of Uhland does appear in the second earliest priority application of Uhland, Provisional Application No. 60/463,865, filed on April 18, 2003.

Accordingly, it is clear that Uhland does not cure the Examiner-admitted deficiency of Sheppard. Thus, Applicants submit that Uhland fails to teach that "(c) for each vesicle, an individual electrical connection between the metallic portion of the vesicle and the first terminal of the power supply, each connection including a switch so as to allow the metallic portion to function as an anode when the switch is closed," as recited in claim 1.

Furthermore, Uhland is cited by the Examiner in an attempt to teach claim features that are admittedly not taught by the primary reference, Sheppard. Accordingly, Uhland fails to teach that "a plurality of blister-like vesicles mounted on a first surface, each vesicle having at least a metallic portion formed from a first metal, and each vesicle having a wall surrounding a lumen, which is configured to be filled with the one or more substances that are to be released into the body cavity," as recited in claim 1.

Since neither Sheppard nor Uhland teach or suggest all claimed features, even if one of ordinary skill in the art happens to combine the teachings of the two references, the combined references still do not render the presently claimed subject matter obvious. Thus, Applicants respectfully submit that claim 1 is non-obvious and allowable over Sheppard and Uhland, whether taken alone or in combination.

Claims 2-6 and 12-16 depend directly or indirectly from claim 1, and thus are allowable for at least this reason.

2. Claims 7-11 and 17-28 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Sheppard in view of Uhland, in further view of U.S. Patent No. 6,293,923 issued to Yachia, *et al.* ("Yachia"). Applicants respectfully traverse this rejection for at least the following reasons.

Claims 7-11 and 17-28 depend directly or indirectly from claim 1, and Yachia fails to cure the deficiencies of Sheppard and Uhland noted above with regard to claim 1. In other words, claims 7-11 and 17-28 are allowable over Sheppard, Uhland, and Yachia because none of these references teach that "a plurality of blister-like vesicles mounted on a first surface, each vesicle having at least a metallic portion formed from a first metal, and each vesicle having a wall surrounding a lumen, which is configured to be filled with the one or more substances that are to be released into the body cavity; for each vesicle, an individual electrical connection between the metallic portion of the vesicle and the first terminal of the power supply, each connection including a switch so as to allow the metallic portion to function as an anode when the switch is closed; ...," as recited in claim 1, upon which rejected claims 7-11 and 17-28 depend. Hence, claims 7-11 and 17-28 are allowable at least because they depend directly or indirectly from allowable claim 1.

Accordingly, Applicants respectfully request withdrawal of the 35 U.S.C. §103(a) rejection of claim 1. Claims 2-28 depend from claim 1 and are allowable for at least this reason. Since none of the other prior art of record, whether taken alone or in any

combination, discloses or suggests all the features of the claimed subject matter, Applicants respectfully submit that independent claim 1, and all the claims that depend therefrom, are allowable. Reconsideration of the rejection is respectfully requested in view of the amendments and the reasons submitted above.

CONCLUSION

Applicants believe that a full and complete response has been made to the pending Office Action and respectfully submit that all of the stated grounds for rejection have been overcome or rendered moot. Accordingly, Applicants respectfully submit that all pending claims are allowable and that the application is in condition for allowance. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative at the number below to expedite prosecution.

If an extension of time is necessary to prevent abandonment of this application and is not filed herewith, then such extension of time is hereby petitioned for under 37 C.F.R. §1.136(a). Any fees required for further extensions of time and any fees for the net addition of claims are hereby authorized to be charged to our Deposit Account No. 14-0112.

Prompt and favorable consideration of this Reply is respectfully requested.

Respectfully submitted,
THE NATH LAW GROUP



Susanne Hopkins
Registration No. 33,247
Derek Richmond
Registration No. 45,771
Sung-Yeop Chung
Registration No. 64,130
Customer No. 20529

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THE NATH LAW GROUP
112 South West Street
Alexandria, VA 22314
(703)548-6284